

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TIMOTHY R ENGLISH,

Plaintiff,

V₃

GARY LUCAS AND JACKIE BATTIES.

Defendants.

CASE NO. C14-5328 RBL-JRC

ORDER DENYING PLAINTIFF'S
MOTION FOR APPOINTMENT OF
COUNSEL

The District Court has referred this 42 U.S.C. § 1983 civil rights action to United States Magistrate Judge J. Richard Creature pursuant to 28 U.S.C. § 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR1, MJR3 and MJR4.

Plaintiff asks the Court to appoint counsel to represent him (Dkt. 16). The motion is denied without prejudice because plaintiff fails to show the Court that his circumstances warrant appointment of counsel.

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983.

Although the Court can request counsel to represent a party, 28 U.S.C. § 1915(e)(1), the Court may do so only in exceptional circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th

1 Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984); *Aldabe v. Aldabe*, 616 F.2d
2 1089 (9th Cir. 1980). A finding of exceptional circumstances requires the Court to evaluate both
3 the likelihood of success on the merits and the ability of plaintiff to articulate his claims pro se in
4 light of the complexity of the legal issues involved. *Wilborn*, 789 F.2d at 1331.

5 Plaintiff alleges an Eighth Amendment cruel and unusual punishment claim based on
6 medical treatment he received and conditions at the Clark County Jail (Dkt. 9). Plaintiff alleges
7 his incarceration prevents him from obtaining documents to support his claim (Dkt. 16).
8 Defendants respond, opposing plaintiff's motion and stating that plaintiff has received his
9 requested medical records (Dkt. 17). Defendants also contend that, contrary to plaintiff's
10 statements to the Court, plaintiff has not contacted counsel regarding discovery (Dkt. 18).

11 Plaintiff fails to show that he has exceptional circumstances that would allow the Court to
12 appoint counsel to represent him in this case. Plaintiff's motion is denied without prejudice.

13 Dated this 21st day of October, 2014.

14
15
16
17 
18 J. Richard Creatura
19 United States Magistrate Judge
20
21
22
23
24